

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

Blue Spike, LLC,

*Plaintiff,*

v.

Texas Instruments, Inc., et al.,

*Defendants.*

Case No. 6:12-cv-499 MHS

Lead Case

Jury Trial Demanded

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Blue Spike, LLC,

*Plaintiff,*

v.

MorphoTrak, Inc. and  
Safran USA, Inc.,

*Defendant.*

Case No. 6:13-cv-89 MHS

Consolidated Case

Jury Trial Demanded

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**Declaration of Scott Moskowitz in Support of Blue Spike's Opposition  
to MorphoTrak's and Safran USA's Motion to Transfer**

I, Scott Moskowitz, declare as follows:

1. I am the Chief Executive Officer of Plaintiff Blue Spike LLC ("Blue Spike"), a Texas limited liability company.

2. I am one of the inventors of all four patents-in-suit.

3. I am domiciled at 433 S. Chilton Avenue, Unit 3, Tyler, Texas 75702. I also own a condominium in Florida, where I live part time in order to receive medical treatments that I cannot receive elsewhere. These medical treatments are an alternative to the use of addictive opiates for pain management.

4. Blue Spike, LLC has its headquarters and principal place of business at 1820 Shiloh Road, Suite 1201C, Tyler, Texas 75703. Tyler, Texas has been Blue Spike's headquarters, principal place of business, and sole operational location since May 2012.

5. Blue Spike, LLC was founded and formed in Tyler in May 2012. Its sole office is in Tyler. It has fifteen employees, and all of them work in Tyler, including its Chief Executive Officer and Chief Technical Officer. Blue Spike leases office space in downtown Tyler, houses all its servers in Tyler, maintains all company documents in Tyler, and has its sources of proof in Tyler. Blue Spike is a member of the Tyler Chamber of Commerce, and its CEO is a member of the Greater East Texas IT Professionals. Blue Spike has also sponsored the Tyler Mini Maker Faire.

6. Blue Spike plans to call witnesses from Texas, including me and other witnesses who will testify about the accused products in this lawsuit.

7. Blue Spike has no offices, no employees, no customers, and no other meaningful contacts in the Central District of California—and never has.

8. At the time of the filing of the this lawsuit and even earlier than the filing of lead Case No. 12-499, Blue Spike, Inc. had no operations, employees, equipment, documents, or other property located in California.

9. Litigating this action in the Central District of California would be very difficult for me due to my medical condition and my limited ability to fly long distances.

10. Litigating this action in the Central District of California would be extremely inconvenient, expensive, and burdensome for Plaintiff Blue Spike, LLC.

11. A transfer would dramatically increase the costs of litigation for Blue Spike, would increase the amount of time that Blue Spike's witnesses and employees would have to spend litigating the case, and would cause serious hardship for me personally, as I suffer from a medical condition that makes it very painful to travel long distances.

12. I have never traveled to California for business or to meet with members of Blue Spike's legal team, which has offices in the San Francisco Bay Area and Texas, including at 918 N. College Ave., in Tyler, Texas. I am unable to travel to California for medical reasons related to pain management. The only meetings related to this litigation that Blue Spike employees and I have attended have all taken place in Tyler, Texas.

I declare, on May 3, 2013, in Smith County, Texas, and under penalty of perjury under the laws of the United States and Texas, that the statements made in this declaration are true and correct.

/s/ Scott Moskowitz  
Scott Moskowitz

#### **ATTESTATION**

I, Randall Garteiser, am the ECF user filing this document with the permission of the signer above, Scott Moskowitz. A true and correct copy of this signed document is being maintained at the law firm of Garteiser Honea, P.C.

/s/ Randall Garteiser  
Randall Garteiser